



TOWN OF FREDERICK HOME RULE CHARTER

As Adopted 2009

TOWN OF FREDERICK HOME RULE CHARTER

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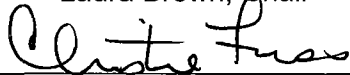
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CERTIFICATE OF ADOPTION OF PROPOSED HOME RULE CHARTER

The undersigned members of the Town of Frederick Home Rule Charter Commission, under the authorization of Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, do hereby certify that the following is the proposed Home Rule Charter as finally approved and adopted by the members of the Charter Commission on the 23rd day of July, 2009. The Charter Commission members believe that the Charter achieves all the goals as stated in the Prefatory Synopsis and therefore endorse this Charter and respectfully submit it to the voters at the Special Election to be held on Tuesday, November 3, 2009.



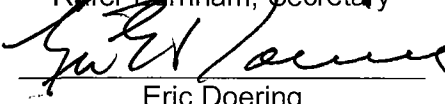
Laura Brown, Chair



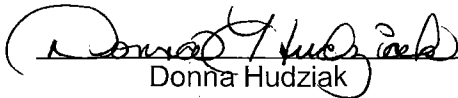
Christine Fuss, Vice Chair



Roder Burnham, Secretary



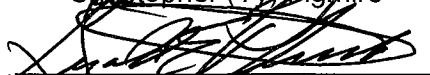
Eric Doering



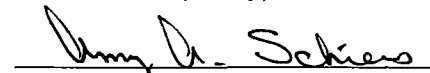
Donna Hudziak



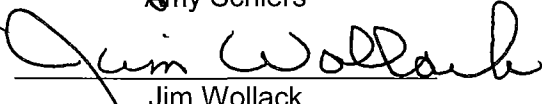
Christopher (Ty) Inghire



Gerald (Gerry) Pfirsch



Amy Schiers



Jim Wollack

PREFATORY SYNOPSIS

In April 7, 2009, the citizens of the Town of Frederick approved the creation of a nine member Home Rule Charter Commission to compose a governance structure that would be more closely tied to the people of Frederick, responsive to local needs and issues, and subject to the direct oversight of its citizens. The creation and adoption of this home rule charter will dissolve Frederick's current default dependence on the State legislature and increase Frederick's ability to solve local issues at a local level.

In drafting this Charter, the Charter Commissioners studied the charters of many other Colorado towns and cities, consulted with experts in municipal government, sought and considered the opinions and views of citizens, and employed legal counsel experienced in municipal law. The vision of the Charter Commission was to assure that the following goals were accomplished:

- Governance processes will be open, transparent and responsive to the citizens.
- Elected officials will have processes that allow them to make decisions and act quickly and responsibly as representatives of the community.
- Checks and balances will be in place to protect the citizens' right to be heard, to assure that issues are adequately researched and considered and that citizens have recourse if they disagree with decisions made by their elected representatives.
- Town staff will function efficiently, effectively and professionally.
- The Charter provides the flexibility in governance needed for Frederick to grow, evolve, and respond to future circumstances.

Key provisions of the proposed Charter:

- Recognize the Board of Trustees-Manager form of government, with flexibility in organizational structure to allow Frederick to adjust to new demands and changing circumstances as the Town grows and prospers; and
- Require voter approval to implement or increase any Town-collected tax, regardless of whether the Taxpayer's Bill of Rights ("TABOR") may be repealed or amended at some future date; and
- Implement effective checks and balances by, among other actions, providing broad citizen powers of recall, initiative and referendum; and
- Ensure responsible use of public funds and provide for the conduct of the Town business on a balanced budget basis.

The Commission believes that this Charter fosters a sound and lasting government, with the optimum interests of the citizens of Frederick being paramount.

PREAMBLE

As citizens of the Town of Frederick, Colorado, and having a desire to claim our right to initiate local independence for our municipality, as granted by the Colorado Constitution, we proclaim our aspiration for increased responsibilities and control to govern ourselves in matters of local concern. As such, we ordain the following Home Rule Charter, in compliance with the Constitution of the State of Colorado, to assert our community's agency and proudly establish the Town of Frederick as locally sovereign for the benefit of all residents, current and future.

ARTICLE I GENERAL PROVISIONS

Section 1.1. Name.

The municipal corporation heretofore existing as the Town of Frederick in Weld County, State of Colorado, shall remain and continue as a political and corporate entity under this Charter and shall continue to be known as the Town of Frederick.

Section 1.2. Boundaries.

The boundaries of the Town shall be the same as presently established, until changed in a manner authorized by law.

Section 1.3. Form of Government.

The municipal government provided by this Charter shall be a "Board of Trustees-Manager" form of government. Pursuant to the Charter provisions and subject only to limitations imposed by the Constitution of the State of Colorado, all powers shall be vested in an elected Board of Trustees, which shall enact local legislation, determine policies and appoint the Town Manager who shall execute the laws and administer the Town government.

Section 1.4. Powers.

The Town shall have all the power of local self-government, home rule and all power possible for a Town to have under the Constitution of the State of Colorado except as provided by this Charter. The enumeration of any particular power in this Charter shall not be deemed to exclude the exercise of any other power lawfully possible for a Town to have under the Constitution of the State of Colorado. All powers of the Town shall be exercised in the manner prescribed by this Charter or, if the manner be not so prescribed, then in such manner as may be prescribed by Ordinance, Resolution or Motion, or as provided by other applicable law.

Section 1.5. Rights and Liabilities.

By the name of the Town of Frederick, the municipal corporation:

- (a) shall have perpetual succession;
- (b) shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the Town and does assume and shall manage and dispose of all trusts in any way connected therewith;
- (c) shall succeed to all the rights and liabilities of the Town;
- (d) shall acquire all benefits of the Town;
- (e) shall assume and shall pay all bonds, obligations and indebtedness of the Town;
- (f) may sue and defend, purchase, lease, receive, hold and enjoy or sell and dispose of real and personal property;
- (g) may establish public works and provide public utilities and other public services as permitted by law;
- (h) may adopt Ordinances and Resolutions as to local and municipal matters unless otherwise prohibited by this Charter or the Constitution of the State of Colorado; and
- (i) shall have a common seal and alter the same at pleasure.

Section 1.6. Definitions. The following terms as used in this Charter shall have the assigned meaning.

"Board of Trustees" shall mean the Mayor and the Trustees.

"C.R.S." shall mean the Colorado Revised Statutes.

"Emergency Ordinance" shall mean an Ordinance adopted in accordance with the provisions of Section 7.6 of this Charter and for which the Board of Trustees has determined that immediate effectiveness is necessary for the immediate preservation of the public peace, health or safety.

"Motion" shall mean a formal step to introduce a matter for consideration or action of the Board of Trustees on matters that are of a non-permanent nature that are adopted in a verbal form by a majority of the Board of Trustees present at a meeting of the Board of Trustees and reflected in the minutes of the meeting.

"Ordinance" shall mean a form of action of the Board of Trustees adopting laws or legislative enactments of a permanent nature or other actions required by this Charter to be by Ordinance, which acts must follow the procedure for passage required by this Charter and shall include Ordinances adopted through the process of initiative as provided in this Charter.

"Quorum" shall mean a majority number of the members of Board of Trustees in office.

"Regular Town Election" shall mean the election held pursuant to Section 5.2 (a) of this Charter.

"Resolution" shall mean a written form of action of the Board of Trustees on matters of a non-permanent nature that are effected through adoption by a majority of the Board of Trustees present at a meeting of the Board of Trustees.

"State" shall mean the State of Colorado.

"TABOR" shall mean the Taxpayer's Bill of Rights as set forth in Article X, Section 20, of the Colorado Constitution, as may be amended from time to time.

"Town Elective Offices" shall mean the offices of Board of Trustees except as specifically addressed in this Charter.

ARTICLE II ELECTIVE OFFICES

Section 2.1. Town Board of Trustees.

The Board of Trustees shall consist of the Mayor and six (6) Trustees, all of whom shall be elected at large from the entire Town.

Section 2.2. Limits on Town Elective Offices.

No person shall be eligible to stand for election for more than one Town Elective Office at any single Town election. A candidate may hold any Town Elective Office of any kind and run for another Town Elective Office of any kind at the same time, but if elected, the candidate must resign his current Town Elective Office and fill the Town Elective Office to which the candidate was subsequently elected.

Section 2.3. Terms of Office--Town Elective Offices.

(a) Each person holding Town Elective Office at the time of the effectiveness of this Charter shall continue to hold such Town Elective Office and his current term shall be extended until his successor takes office in accordance with subsection (b) of this Section 2.3 following the

Regular Town Election which takes place in the year in which his term was to expire prior to the effectiveness of this Charter, subject otherwise to the same limitations on number of terms of office in existence prior to the effectiveness of this Charter.

(b) Subject to the transition provisions set forth in subsection (a) of this Section 2.3, the term of office for each person holding Town Elective Office shall commence upon their taking the oath of office at the next ensuing organizational meeting of the Board of Trustees held at the first regular meeting of the Board of Trustees in the January following the election and shall continue during the term for which they shall have been elected until their successors shall have been elected and duly qualified. An organizational meeting of the Board of Trustees shall be held at the first regular meeting of the Board of Trustees in January following the election year.

(c) Subject to the transition provisions set forth in subsection (a) of this Section 2.3, the Mayor and each Trustee shall be elected for a term of four (4) years

(d) The limitations on terms imposed by Article XVIII, §11 of the Colorado Constitution, as amended, shall govern term limits in the Town.

Section 2.4. Mayor--Powers and Duties.

The Mayor shall preside at all meetings of the Board of Trustees and shall exercise such powers and perform such other duties as are, or may be, conferred and imposed upon him by this Charter or the Ordinances of the Town. The Mayor shall have all the powers, rights and privileges of a Trustee. The Mayor shall have no power of veto. The Mayor shall be recognized as the head of the Town government for all ceremonial, dignitary and legal purposes, and the Mayor shall execute and authenticate legal instruments requiring the Mayor's signature as such official.

Section 2.5. Mayor Pro-Tem.

The Board of Trustees shall, at the first regular meeting of the Board of Trustees in the January of each odd-numbered year, elect one of its Trustees to serve as Mayor Pro-Tem for a term of two (2) years, expiring at the first regular meeting of the Board of Trustees in January two years later. The Mayor Pro-Tem shall be elected by a majority of the members of the Board of Trustees present at said meeting and may be removed by a majority of members of Board of Trustees in office at the time a vote is taken. In the absence or disability of the Mayor, the Mayor Pro-Tem shall preside at meetings of the Board of Trustees and shall have all powers and duties of the Mayor. The Mayor Pro-Tem shall have all the powers, rights and privileges of a Trustee.

Section 2.6. Qualifications.

(a) To be eligible to hold Town Elective Office, either by election or by appointment, a person, at the time of his nomination and election or appointment, shall be a registered elector as defined by the laws of the State of Colorado, and a primary resident and registered elector of the Town. To be eligible to hold Town Elective Office, a person shall have resided within the Town at the time of election or appointment for one (1) year immediately preceding such election or appointment.

(b) Each person holding Town Elective Office, either by election or by appointment, shall maintain his primary residency in the Town throughout his term of office. If any person holding Town Elective Office shall move from the Town during his term of office, his seat shall be vacant and such vacancy shall be filled by the Board of Trustees as provided by this Charter.

(c) No person holding Town Elective Office, either by election or by appointment, shall be an employee of the Town during his term of office.

(d) No person holding Town Elective Office, either by election or by appointment, shall hold any other elective position with a federal, state, county or municipal governmental entity. Notwithstanding, a person may hold Town Elective Office and hold office as a member of a Charter Commission formed pursuant to C.R.S. Part 2, Article 2, Title 31, as may be amended from time to time.

Section 2.7. Vacancies.

(a) An official shall continue to hold his Town Elective Office until his successor is duly qualified except when such office is vacated as set forth in this Section. A Town Elective Office shall become vacant whenever any official fails to qualify within thirty (30) days after the commencement of his term, or retain qualification for Town Elective Office as set forth in Section 2.6, or is recalled, removed, dies, becomes incapacitated, resigns, refuses to serve or is judicially declared incompetent or ceases to be a resident of the Town.

(b) In the event of a vacancy in the office of Mayor, the Board of Trustees may fill the vacancy by appointment or order a special election as soon as practicable to fill the vacancy. If a vacancy is filled by appointment or special election, the person holding the office of Mayor following such appointment or special election shall hold such office only until the term of office of a successor elected at the next Regular Town Election has commenced. The successor elected at the next regular election shall hold office for a term of four (4) years. The Mayor Pro-Tem shall have all powers and duties of the Mayor during any period of vacancy in the office of Mayor.

(c) In the event of a vacancy in the office of a Trustee, the Board of Trustees may fill the vacancy by appointment or by calling for a special election as soon as practicable.

(1) If filled by appointment, the person appointed to fill the vacated office of Trustee shall hold such office only until the term of office of a successor elected at the next Regular Town Election has commenced. At the next Regular Town Election, in order to retain staggered terms of office for Trustees, the successor elected to fill the office of Trustee which was filled by appointment shall be nominated and elected to a term of either two (2) years or four (4) years.

(2) If filled by special election, the person elected to fill the vacated Trustee office shall hold office only until the expiration of the term of office held by the Trustee whose office was vacated.

Section 2.8. Compensation.

All persons holding Town Elective Offices shall receive such compensation as currently in effect at the time of the effectiveness of this Charter and as may be amended from time to time by Ordinance; provided, however, that the compensation of any person holding Town Elective Office shall not be increased or decreased in any term of office during which the increase or decrease is approved by the Board of Trustees. All persons holding Town Elective Offices may, upon order of the Board of Trustees, be paid their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.9. Powers of Board of Trustees.

The Board of Trustees shall constitute the legislative and governing body of the Town and shall have all legislative powers and functions of municipal government, except as otherwise provided in the Constitution of the State of Colorado or this Charter and shall have the power and authority to adopt such Ordinances, Resolutions and Motions, as it shall deem proper.

Section 2.10. Oath of Office.

Every person holding elected office, before entering upon the duties of such office, shall take an oath or affirmation of office that the official will support the Constitution and the laws of the United States and of the State of Colorado and this Charter and the Ordinances of the Town and will faithfully perform the duties of his office upon which the official is about to enter. The oath shall be kept on file in the office of the Town Clerk and shall be reasonably available for public inspection.

Section 2.11. Standards of Conduct.

The Board of Trustees may adopt an Ordinance governing disclosure of conflicts of interest, recusals from voting and other standards or code of conduct or ethics that shall supersede statutory or constitutional provisions governing or addressing the same matters. To the extent not superseded by or conflicting with this Charter or such local Ordinance, the Board of Trustees shall be governed by the Standards of Conduct as contained in Title 24, Article 18 of the C.R.S., as the same may be amended from time to time.

Section 2.12. Removal from Office.

By an affirmative roll call vote of two-thirds (2/3) of the members of the Board of Trustees in office at the time of such vote, the Mayor or any Trustee may be removed from office for good cause. No removal shall be made without notice to such elected official which contains the charge in writing and the facts upon which the charge is based and an opportunity of a hearing before the Board of Trustees, which hearing shall be held no sooner than ten (10) days after the date the notice is given.

**ARTICLE III
MEETINGS OF BOARD OF TRUSTEES**

Section 3.1. Regular Board of Trustees Meetings.

The Board of Trustees shall meet regularly at least twice each month at a day and hour and place to be fixed by Resolution of the Board of Trustees. Any regular meeting may be cancelled by the Mayor or by a majority of the Board of Trustees in the event of a lack of Quorum, lack of scheduled Town business, or occurrence of a holiday.

Section 3.2. Special Meetings.

Special meetings of the Board of Trustees may be called by the Town Clerk upon the oral request of four (4) or more members of Board of Trustees with at least twenty-four (24) hours notice personally served on or left at the usual place of residence of each member of the Board of Trustees and with at least twenty-four (24) hours notice to the public, delivered in accordance with the requirements of this Charter and the Colorado Open Meetings Law, as now in effect and as may be amended from time to time.

Section 3.3. Emergency Meetings.

An emergency meeting may be called by the Town Clerk upon the oral request of any two (2) or more members of Board of Trustees in the event of an immediate danger or threat to the public

health, welfare, peace, safety or property for the purpose of preservation or protection of the public health, welfare, peace, safety or property. Unless it is impractical, all members of the Board of Trustees shall be notified of such meeting and such meeting may be held if a Quorum consents. Maximum practical notice, including posted notice, shall be given to the public stating the purpose, time, place and manner of any such meeting.

Section 3.4. Work Sessions.

The Board of Trustees may hold work sessions as deemed necessary in accordance with its policies and protocols. No Quorum shall be required at any work session and no legally binding or formal action shall be taken at any such session.

Section 3.5. Open Meetings.

All meetings of the Board of Trustees shall be open to the public. At Board of Trustees meetings, citizens, Town employees, owners of real property and operators of businesses within the Town shall have a reasonable opportunity to be heard except for those meetings that are designated as work sessions. In compliance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time, the Town Clerk shall keep a record of the proceedings of each meeting which shall be reasonably available for public inspection.

Section 3.6. Executive Sessions.

Executive sessions may be held in compliance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time.

Section 3.7. Quorum.

In order for the Board of Trustees to conduct business, a Quorum shall be required at all meetings of the Board of Trustees except for work sessions. In the absence of a Quorum, a lesser number may reschedule any meeting to a later date and time.

Section 3.8. Policies and Protocols.

The Board of Trustees shall prescribe the policies and protocols governing the procedures and rules of order at its meetings, which rules shall remain in effect until amended in accordance with the provisions of the adopted policies and protocols.

Section 3.9. Attendance Required.

Three (3) or more unexcused absences by a member of the Board of Trustees in any one (1) calendar year shall constitute grounds for sanctions. All absences shall be presumed excused unless a motion is made and approved by a majority of the Board of Trustees in attendance to designate an absence as unexcused. All other procedures for excusing absences, including which types of meetings require attendance hereunder and appropriate sanctions, shall be as set forth in the policies and protocols of the Board of Trustees, as may be amended from time to time.

**ARTICLE IV
POSTING OF MEETINGS**

The Board of Trustees shall adopt a Resolution which establishes public notice and posting requirements in accordance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time, including designating public places for such postings and such designation shall be deemed automatically readopted at the Board of Trustee's first regular meeting of each calendar year unless otherwise determined by the Board of Trustees.

ARTICLE V ELECTIONS

Section 5.1. Laws Governing Elections.

Special and general municipal elections shall be governed by the Colorado Municipal Election Code of 1965 as now in effect and as may be amended from time to time, except as the Board of Trustees may prescribe by Ordinance or Resolution calling an election.

Section 5.2. Municipal Elections.

(a) A general municipal election shall be held on the date in November of each even-numbered year to coincide with the election date of the Weld County coordinated election.

(b) Any special municipal election may be called by Resolution or Ordinance of the Board of Trustees at least thirty (30) days in advance of such election. The Resolution or Ordinance calling a special municipal election shall set forth the purpose or purposes of such election.

Section 5.3. Nonpartisan Elections.

All municipal elections shall be nonpartisan. No municipal election ballot shall contain any language referring to any political party affiliation.

Section 5.4. Campaign Finance Reporting.

Reports setting forth the information required by C.R.S. 1-45-108, as now in effect and as may be amended from time to time, shall be filed with the Town Clerk forty-two (42), twenty-one (21) and eight (8) days before and thirty (30) days after any Town election. Nothing contained herein shall preclude the Board of Trustees from adopting an Ordinance requiring more frequent campaign finance disclosure reporting. The Board of Trustees may provide by Ordinance for penalties for the violation of campaign finance disclosure requirements. The Board of Trustees shall provide by Ordinance for publicizing campaign finance disclosure reports.

ARTICLE VI RECALL, INITIATIVE AND REFERENDUM

Section 6.1. Right of Recall.

(a) Any person holding the office of Mayor or Trustee may be recalled at any time after one hundred and eighty (180) days in office by the electors entitled to vote for a successor of such incumbent.

(b) The procedures for recall shall be those set forth in Title 31, Article 4, Part 5, C.R.S., as now in effect and as may be amended from time to time, except that the Board of Trustees may, by Ordinance and consistent with this Charter, amend such procedures.

(c) A recall petition shall be signed by registered electors entitled to vote for a successor to the incumbent in number equal to at least twenty-five percent (25%) of the entire vote cast at the last preceding Regular Town Election for all candidates for the office to which the incumbent sought to be recalled was elected.

(d) After the first recall petition and election, a subsequent recall petition against the same official in the same term shall be signed by registered electors entitled to vote for a successor to the incumbent in a number equal to at least fifty percent (50%) of the entire vote cast in the last

preceding Regular Town Election for all candidates for the office to which the incumbent sought to be recalled was elected.

Section 6.2. Right of Initiative.

(a) The power of initiative to propose any legislative Ordinance to the Board of Trustees is reserved to the voters of the Town in accordance with the provisions of Article V, Section 1 of the Constitution of the State of Colorado and Title 31, Article 11, of the Colorado Revised Statutes, as may be amended from time to time, unless other provisions are specifically adopted in this Charter.

(b) A petition for an Ordinance by initiative shall be signed in a number equal to at least five percent (5%) of the registered electors for Ordinances to be referred to a Regular Town Election and shall be signed in a number equal to at least fifteen percent (15%) of the registered electors for Ordinances to be referred to a special municipal election.

(c) After a final determination of petition sufficiency, the Board of Trustees shall have thirty-five (35) days to adopt the proposed Ordinance or refer the proposed Ordinance to the registered electors of the Town at an election.

Section 6.3. Right of Referendum.

(a) The power of referendum to require reconsideration by the Board of Trustees of any legislative Ordinance, except an Emergency Ordinance passed in accordance with this Charter, is reserved to the voters of the Town in accordance with the provisions of Article V, Section 1 of the Constitution of the State of Colorado insofar as such provisions are applicable.

(b) A petition for a referendum shall be signed in a number equal to at least five percent (5%) of the registered electors of the Town.

Section 6.4. Withdrawal of Petition.

An initiative, referendum, or recall petition may be withdrawn at any time prior to thirty (30) days preceding the day scheduled for a vote, by filing with the Town Clerk a written request for withdrawal signed by a majority of the persons who are designated in the petition as representing the signers on matters addressed in or affecting the petition. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 6.5. Petition Forms to be Provided.

The Town Clerk shall provide, upon request, sample forms of initiative, referendum and recall petitions which conform to the requirements of the Constitution of the State of Colorado, this Charter and, if applicable, State statutes.

Section 6.6. Single Subject Requirement -- Initiated and Referred Measures.

(a) No measure proposing an amendment to the ordinances of the Town by means of a petition or initiative or referendum shall be submitted to the registered electors of the Town if the measure contains more than one subject.

(b) The Town Clerk shall approve for petition circulation measures proposing referred ordinances or initiated ordinances only when such measures contain a single subject.

(c) As used in this Section, the single subject requirement means that the matters in the measure submitted for voter approval are necessarily or properly connected and are not disconnected or incongruous.

ARTICLE VII LEGISLATIVE ACTIONS

Section 7.1. Legislative Actions.

The Board of Trustees shall act only by Ordinance, Resolution or Motion.

Section 7.2. Action by Ordinance.

In addition to such acts of the Board of Trustees as are required by other provisions of this Charter to be by Ordinance, every act authorizing borrowing of money, levying any new tax, increasing any existing tax or establishing any rule or regulation for the violation of which a penalty is imposed, shall be by Ordinance.

Section 7.3. Board of Trustee Voting.

For passage, except as may be otherwise required by this Charter, every Ordinance shall require the affirmative roll call vote by "Yes" of a majority of the Board of Trustees present. Except as otherwise specifically provided in this Charter, Resolutions and Motions shall require the affirmative vote of a majority of the Board of Trustees present in such form as set forth in the procedures and rules of order of the Board of Trustees, as may be amended from time to time. Every member of the Board of Trustees, when present, shall vote upon Ordinances, Resolutions and Motions unless such member of the Board of Trustees shall have a legally recognized conflict of interest, which shall be disclosed at the introduction of the matter or as soon as the conflict is discovered.

Section 7.4. Form of Ordinance.

The enacting clause of all Ordinances shall be: "BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO".

Section 7.5. Procedure for Passage of Ordinances.

The procedure for passage of an Ordinance, other than an Emergency Ordinance, shall be as follows.

- (a) Introduction at any regular or special meeting.
- (b) Public hearing.
- (c) Any Ordinance may be amended before final passage by a roll call of the Board of Trustees after public hearing on the proposed amendment.
- (d) Roll call vote of the Board of Trustees with passage requiring an affirmative vote of greater than one-half (1/2) of the members of the Board of Trustees present at the meeting.
- (e) After final passage, publicizing in accordance with the requirements, methods and procedures for publicizing Ordinances as adopted by the Board of Trustees by Ordinance. Whenever possible, publicizing shall be within ten (10) days after final passage.

(f) Unless a later date is specified in the text of the Ordinance, an Ordinance other than an Emergency Ordinance shall take effect and be enforced thirty (30) days after publicizing in accordance with the requirements, methods and procedures for publicizing Ordinances as adopted by the Board of Trustees by Ordinance.

Section 7.6. Procedure for Passage of Emergency Ordinances.

Emergency Ordinances for which immediate effectiveness is deemed necessary for the immediate preservation of the public peace, health or safety, shall take effect immediately upon passage by an affirmative roll call vote of three-fourths (3/4) of the members of the Board of Trustees in office at the time of such vote and shall require a public hearing prior to the final vote of the Board of Trustees. Publicizing shall be as soon as possible, but in any event no later than ten (10) days after passage, in accordance with the procedures and methods for publicizing as adopted by the Board of Trustees by Ordinance. A recitation in any Emergency Ordinance that the Board of Trustees deems the passage of said Ordinance to be for the immediate preservation of public peace, health or safety shall be conclusive.

Section 7.7. Enactment of Codes and Amendments Thereof by Reference.

In accordance with statutes relative to adoption by reference now or hereafter in effect, the Board of Trustees may enact any appropriate Colorado statute or any standard code promulgated or enacted by any municipality, county, state or federal agency, or by a recognized trade or professional organization, by reference thereto in an enacting Ordinance and without publishing such statutes or codes in full. In the event that any such statute or code, after being adopted by reference, is revised or amended by the agency or organization by which it was enacted or promulgated, then any such revision or amended version may be adopted by reference by an Ordinance passed in the usual manner.

Section 7.8. Severability of Ordinances.

Unless an Ordinance shall expressly provide to the contrary, if any portion of an Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the Ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable.

Section 7.9. Official Records of Legislative Enactments.

(a) A true copy of every Resolution as hereafter adopted shall be numbered and recorded in the official records of the Town.

(b) All Ordinances shall be kept and maintained by the Town Clerk in such form as is sufficient to assure reasonable access to the public and shall be reasonably available for public inspection. It shall be the duty of the Mayor and Town Clerk to authenticate such records by their official signatures thereon, but the failure to so authenticate any Ordinance shall not invalidate it or suspend its operation.

(c) The Board of Trustees shall cause the permanent Ordinances to be codified. Such codification may be of the entire body of permanent Ordinances or of the Ordinances on some particular subject and may be reenacted by the Board of Trustees or authenticated in such other manner as may be designated by Ordinance. Subsequent codification shall be updated as deemed necessary by the Board of Trustees.

ARTICLE VIII TOWN ADMINISTRATION

Section 8.1. Appointment and Qualifications of Town Manager.

The Board of Trustees shall hire a Town Manager who shall be the chief administrative officer of the Town and who shall serve at the pleasure of the Board of Trustees. The Town Manager shall be chosen by the Board of Trustees on the basis of executive and administrative qualifications with particular emphasis on experience and training with respect to the duties of the office and shall have the minimum qualifications, if any, as may be set by the Board of Trustees by Ordinance. The Town Manager shall be a resident of the Town during the Town Manager's appointment except that the Board of Trustees may approve an agreement with an appointee to the position of Town Manager to allow a reasonable time for the appointed Town Manager to establish such residency following appointment. No person holding or who has held Town Elective Office shall be hired as Town Manager during or within one (1) year after the termination of the term of such elected official. The employment of the Town Manager may be terminated only upon the affirmative vote of a majority of the Board of Trustees at any regular or special meeting called for that purpose and subject to the Town Manager's employment agreement, if any. The action of the Board of Trustees in removing the Town Manager shall be final, it being the intention to vest all authority and fix all responsibility for such removal in the Board of Trustees.

Section 8.2. Absence of Town Manager.

The Town Manager shall designate by letter approved by the Board of Trustees and filed with the Town Clerk, qualified administrative Town employee(s) to perform the Town Manager's duties during a temporary absence or disability. In the event of a failure of the Town Manager to make such a designation, the Board of Trustees may designate a qualified administrative Town employee to perform the duties of the Town Manager until the Town Manager returns or the disability ceases.

Section 8.3. Powers and Duties of Town Manager.

The Town Manager shall be responsible to and report directly to the Board of Trustees on the proper administration of all affairs of the Town placed in his charge, and to that end the Town Manager shall have the powers and duties as set forth by Board of Trustees by Ordinance.

Section 8.4. Finance Director.

(a) The Town Manager shall hire a chief financial officer or director ("Finance Director") who shall serve at the pleasure of the Town Manager.

(b) The Finance Director shall have the custody of all monies and all evidences of indebtedness belonging to the Town or held in trust by the Town.

(c) The Finance Director shall prepare and present regular reports to the Board of Trustees outlining the current financial position of the Town and seeking approval of Town financial and budgetary matters in accordance with this Charter and the Ordinances and policies of the Town.

(d) The Finance Director shall collect all monies for the Town, the collection of which is not provided for elsewhere by Charter or Ordinance. The Finance Director shall receive from other officers and employees of the Town all monies belonging to and receivable by the Town and collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All monies shall be turned over to the Finance Director promptly after collection or receipt.

(e) The Finance Director shall keep and deposit all monies or funds in such manner and only in such places as the Board of Trustees may determine. The Board of Trustees may form committees to advise the Board of Trustees on audit and investment matters. In the event that such committees are formed, the Finance Director shall be a member of and advisor to such committees.

(f) The Finance Director shall disburse all Town funds in accordance with the provisions of this Charter and procedures established by the Board of Trustees.

(g) The Finance Director shall perform such other duties as may be prescribed by the Town Manager.

Section 8.5. Town Clerk.

The Town Manager, with the advice and consent of the Board of Trustees, shall hire a Town Clerk who shall serve at the pleasure of the Town Manager. The employed Town Clerk shall have those powers and duties as mandated by Charter, by Ordinance, by the Town Manager, or by the Town Manager's designee.

Section 8.6. Relationship of Board of Trustees to Administrative Service.

The Board of Trustees, acting as a whole and by formal action, shall have full authority to direct the Town Manager with respect to the performance of his or her duties and responsibilities. Although individual members of the Board of Trustees shall be authorized to discuss all matters related to Town operations with employees, officers, contractors, and consultants of the Town, including the Town Manager, no individual member of the Board of Trustees shall be authorized to give any direct orders to Town employees.

ARTICLE IX JUDICIARY AND LEGAL

Section 9.1. Municipal Court.

(a) There shall be a Municipal Court of record that shall have jurisdiction to hear and determine all cases arising under this Charter or the Ordinances of the Town. The powers of and the procedure in such Municipal Court and the manner of enforcement of its orders and judgments, shall be such as is provided for under this Charter, the laws of the State of Colorado and the Ordinances of the Town with respect to municipal courts of records. The Board of Trustees shall provide for a suitable place and all supplies and personnel necessary for the proper functioning of the Court.

(b) In accordance with State law, the Municipal Court shall be presided over and its functions exercised by one (1) or more municipal judges, who shall be attorney(s)-at-law authorized to practice in Colorado and otherwise qualified and appointed by the Board of Trustees as established by Ordinance. A municipal judge shall receive compensation not dependent upon the outcome of the matters to be decided by him and as fixed by the Board of Trustees by Resolution or Ordinance from time to time.

(c) The Board of Trustees shall provide for the enforcement of its Ordinances by fine or imprisonment or both, within the limits established from time to time by State law.

Section 9.2. Town Attorney.

(a) The Town Attorney shall be appointed by and shall serve at the pleasure of the Board of Trustees. The Town Attorney shall be the legal representative of the Town as directed by the Board of Trustees.

(b) The Town Attorney shall be an attorney-at-law authorized to practice in Colorado and shall have the minimum number of years of experience in the practice of law as may be set forth by Ordinance or Resolution.

ARTICLE X BOARDS AND COMMISSIONS

Section 10.1. Right to Establish.

To the extent not otherwise required by this Charter, the Board of Trustees shall have authority to create and disband boards, commissions and committees and confer upon the same such powers and duties as it deems advisable by Resolution or by Ordinance.

Section 10.2. Membership.

To the extent the number and qualifications of members of any board, commission or committee is not otherwise required by this Charter, members of such boards, commissions and committees shall be appointed by the Board of Trustees in accordance with an Ordinance setting forth the number of members, qualifications, terms, appointment procedures and compensation, if any, for each board, commission or committee. Members shall serve at the pleasure of the Board of Trustees and may be removed at any time, with or without cause, by an affirmative vote of a majority of the members of the Board of Trustees voting on such matter. The Board of Trustees shall make appointments to fill vacancies for the unexpired terms.

Section 10.3. Operations.

Each board, commission and committee shall appoint its own chair or other officers. The Board of Trustees shall adopt an Ordinance that governs the rules and procedures for the proper conduct of the business of all boards, commissions and committees established pursuant to the authority in this Article. Boards, commissions and committees created hereunder shall exercise the functions and powers and perform the duties assigned by this Charter or by the Ordinances or Resolutions of the Town.

ARTICLE XI FINANCIAL MANAGEMENT

Section 11.1. Revenue.

Subject to applicable limitations in the Colorado Constitution (including without limitation applicable provisions of TABOR) and in this Charter, the Board of Trustees shall have all powers now or hereafter granted to municipalities of any kind in the State to raise revenue by any power of any kind, including but not limited to taxes, rates, fees, licenses, tolls, penalties and charges. Any voter approvals waiving or amending any requirements of TABOR in force at the time of effectiveness of this Charter shall continue in force and effect.

Section 11.2. Prior Voter Approval.

No tax rate increase or levy of any new tax shall be effective without prior voter approval.

Section 11.3. Setting Fees for Town Services.

In adopting any new Town-imposed fee or changing the amount of any existing Town-imposed fee for any service rendered by the Town (specifically excluding franchise fees), the Board of Trustees shall determine the amount of such fee by considering the costs incurred by the Town in providing the service for which the fee is charged.

Section 11.4. Fiscal Year.

The fiscal year of the Town and all of its agencies shall begin on the first (1st) day of January and end on the thirty-first (31st) day of December of each year.

Section 11.5. Proposed Annual Budget.

A proposed budget for the ensuing fiscal year shall be presented to the Board of Trustees on or before the fifteenth (15th) day of October of each year.

Section 11.6. Budget Hearing.

The Board of Trustees shall hold a public hearing on the proposed budget each year. Notice of the time and place of such hearing shall be published at least once seven (7) days prior to such hearing and copies of the proposed budget shall be deposited in the office of the Town Clerk and shall be reasonably available for public inspection and shall be publicized in accordance with an Ordinance adopted by the Board of Trustees. The Board of Trustees may at any time before final adoption increase, decrease, add or strike out any item in the budget.

Section 11.7. Scope of Annual Budget.

(a) The budget adopted by the Board of Trustees shall contain:

- (1) an estimate of anticipated revenue from all sources for the ensuing year;
- (2) an estimate of the general fund cash surplus at the end of the current fiscal year or of the deficit to be made up by appropriation;
- (3) the estimated expenditures necessary for the operation of the departments, offices and agencies of the Town;
- (4) debt service requirements for the ensuing fiscal year;
- (5) an estimate of the sum required to be raised by the tax levy for the ensuing fiscal year and the rate of levy necessary to produce such sum; and
- (6) a balance between the total estimated expenditures, including any deficit to be met and monies set aside for public improvements and total anticipated revenue, plus any surplus.

(b) All estimates shall be in detail showing revenues by source and expenditures by departments, organizational units, activities, character, and object.

Section 11.8. Certification of Tax Levy.

In accordance with the requirements of Colorado law, the Board of Trustees shall fix the amount of tax levy, which shall be assessed upon each dollar of assessed valuation of all taxable property within the corporate limits of the Town and shall cause the same to be certified to the County as required by law. If the Board of Trustees should fail in any year to make such levy as

above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as provided by law.

Section 11.9. General Fund.

There is hereby established a fund to be known as the general fund. All revenues not specifically allocated to any other fund shall be placed in the general fund. All general functions of the Town shall be financed by expenditures from the general fund.

Section 11.10. Contingencies.

The general fund shall contain a line item for contingencies.

Section 11.11. Special Funds.

Additional funds, which shall be known as special funds, may be created by Ordinance to provide for monies to be held or used for special purposes as the Board of Trustees may determine, including but not limited to enterprise funds or special purpose funds.

Section 11.12. Adoption of Budget and Appropriation.

Not later than the fifteenth (15th) day of December of each year, the Board of Trustees shall adopt an Ordinance or a Resolution for the budget and for the annual appropriations. No budget shall be deemed adopted unless a public hearing is held prior to the vote of the Board of Trustees and there is an affirmative vote of a majority of the Board of Trustees to adopt such budget and appropriations. Copies of the budget as adopted shall be public records and shall be made available in the office of the Town Clerk, shall be reasonably available for public inspection, and shall be publicized in accordance with an Ordinance adopted by the Board of Trustees. If the Board of Trustees fails to adopt a budget by this date, the amounts appropriated for the operation of the various departments of the Town during the prior fiscal year shall be deemed adopted for the current fiscal year on a month to month basis, with all items prorated accordingly until such time as the Board of Trustees adopts the budget for the current fiscal year.

Section 11.13. Amendments to Appropriations.

(a) The Board of Trustees may make additional appropriations by Ordinance or Resolution during the fiscal year for unanticipated expenditures required of the Town, but such additional appropriations shall:

- (1) not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public peace, health or safety;
- (2) be authorized only following a public hearing prior to the vote of the Board of Trustees; and
- (3) require an affirmative vote of a majority of the Board of Trustees.

(b) If at any time during the fiscal year it appears probable to the Town Manager that the revenues available will be insufficient to meet amounts appropriated, the Town Manager shall provide a report to the Board of Trustees without delay indicating the estimated amount of deficit and recommendations as to any steps to be taken. The Board of Trustees shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by Ordinance or Resolution reduce one or more appropriations.

Section 11.14. Publicizing of Expenditures.

Expenditures authorized to be made need not be published, but the Town Clerk shall maintain a record on file of same, which shall be reasonably available for public inspection and shall publicize the same in accordance with an Ordinance adopted by the Board of Trustees.

Section 11.15. Capital Program.

(a) The Town Manager shall prepare and submit to the Board of Trustees a multi-year capital program plan no later than the date of submission of the proposed annual budget.

(b) The capital program plan shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(c) Copies of the capital program plan shall be public records, shall be reasonably available for public inspection in the office of the Town Clerk, and shall be publicized in accordance with an Ordinance adopted by the Board of Trustees.

Section 11.16. Independent Audits.

The Board of Trustees shall provide for an annual independent audit of all accounts of the Town to be performed by a certified public accountant experienced in municipal accounting. The auditor selected to perform any audit on behalf of the Town shall have no direct personal interest in the financial affairs of the Town or of any member of the Board of Trustees or of any member of the audit committee, if such committee is formed by the Board of Trustees. Unless another date is provided by Ordinance, the annual audit shall be completed within six (6) months of the close of the fiscal year. Copies of any audit undertaken in accordance with this Section shall be available for public inspection or review and publicized in accordance with an Ordinance adopted by the Board of Trustees.

**ARTICLE XII
BONDED INDEBTEDNESS**

The Town may, subject to applicable limitations in the Colorado Constitution (including without limitation applicable provisions of TABOR), borrow money or enter into other obligations and issue securities or other evidences of such obligations in such form and manner as determined by the Board of Trustees to be in the best interests of the Town.

**ARTICLE XIII
EMINENT DOMAIN**

The Town shall have the power of eminent domain, within and without the limits of the Town, for public purposes as provided by the Constitution of the State of Colorado. Whenever the Board of Trustees exercises the power of eminent domain, the Ordinance shall recite and thoroughly describe the public purpose for such action, shall require an affirmative roll call vote of three-fourths (3/4) of the members of the Board of Trustees in office at the time of such vote and shall require a public hearing prior to the final vote of the Board of Trustees.

ARTICLE XIV UTILITIES AND FRANCHISES

Section 14.1. Town Utilities.

The Town shall have and exercise all of the authority and powers provided by the Colorado Constitution, State statutes, and other applicable laws in any matter pertaining to Town-owned utilities and the Board of Trustees may from time to time establish and provide for the collection of rates, fees, and charges for water, sewer, and other utilities and services as and if furnished by the Town.

Section 14.2. Franchise Term; Non-exclusivity.

No franchise shall be granted for a period of longer than twenty (20) years. Upon the expiration of any franchise, the right to use the public streets, ways or places granted thereby shall cease unless a new or extended franchise is granted. No exclusive franchise shall ever be granted.

ARTICLE XV MISCELLANEOUS PROVISIONS

Section 15.1. Bequests, Gifts and Donations.

The Board of Trustees, on behalf of the Town, may receive bequests, gifts and donations of all kinds of property in fee simple or in trust, for public, charitable or other purposes, and do all things and acts necessary to carry out the purposes of such bequests, gifts and donations, with the power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the bequest, gift or trust.

Section 15.2. Contracts for Purchases, Leases, Services and Construction of Public Works.

The Board of Trustees may establish by Ordinance the procedure for entering into contracts for purchases, contracts for leases, contracts for services and contracts for construction of public works.

Section 15.3. Conveyance of Interests in Real Property.

The Board of Trustees by Ordinance may purchase, sell or exchange any fee interest in real property. Any conveyance of real property interests less than a fee interest shall be effected in the manner as set forth by Ordinance adopted by the Town Board of Trustees.

Section 15.4. Improvement Districts.

The Town shall have the power to contract for, construct, or install special or local improvements of every character within designated districts of the Town in accordance with the Constitution and statutes of Colorado in carrying out such purposes.

Section 15.5. Amendment.

(a) This Charter may be amended in the manner provided by Article XX of the Constitution of the State of Colorado and statutes promulgated in accordance therewith at any general election or special election called for such purpose:

- (1) upon questions that may be submitted to the electors by a majority of the Board of Trustees; or
- (2) upon questions that may be submitted by the electors.

Unless the procedures are amended by the Board of Trustees by Ordinance, the Charter may be amended in accordance with the procedures set forth in State statute. If provisions of two (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

(b) Without limiting the provisions of subsection (a), at least once every five (5) years the Board of Trustees shall review the provisions of this Charter and determine whether to appoint a Charter review commission, the size, composition, membership and duration of which shall be specified by Resolution, except that a majority of the members of such Charter review commission shall not be members of the Board of Trustees. If formed, the Charter review commission shall be charged with conducting a comprehensive review of the Charter and submitting a report to the Board of Trustees containing any recommended amendments.

Section 15.6. Severability.

If any provision, article, section, sentence, clause or part of this Charter, or the application thereof to any person or circumstances be held by any court of competent jurisdiction to be unconstitutional or invalid, such holding shall not affect, impair or invalidate the Charter as a whole or any part hereof other than the part so held to be invalid, and to this end the provisions of this Charter are declared to be severable.

Section 15.7. Interpretation.

Where any question exists as to the meaning of any portion of this Charter, it shall be interpreted consistently with the Charter's purpose to reserve to the Town and its citizens the broadest possible powers of home rule and self-government available under the Constitution, as limited only by the specific language of this Charter and the Constitution of the State of Colorado. Whenever the wording of this Charter refers to either the masculine or feminine gender, it shall be interpreted to apply equally to persons of either gender and is used gender specifically only for administrative convenience.

Section 15.8. Effective Date of Charter.

This Charter shall become effective immediately upon voter approval and canvassing at a regular or special election held for the purpose of considering this Charter.

ARTICLE XVI TRANSITIONAL PROVISIONS

Section 16.1. Existing Legislative Actions and Determinations and Voter Approvals.

All prior actions, including Resolutions, Ordinances, bylaws and rules and regulations taken by the Board of Trustees or bylaws, rules or regulations or decisions or determinations adopted by any appointed board, authority or commission of the Town, are hereby ratified and approved and shall be considered the lawful action of said Board of Trustees or board, authority or commission. All Ordinances and Resolutions of the Town in force at the time this Charter becomes effective shall continue in force except insofar as they conflict with the provisions of this Charter, or shall be amended or repealed by Ordinance enacted under authority of this Charter. In the event of any apparent inconsistencies between this Charter and said Ordinances or Resolutions, this Charter shall prevail. Any voter approvals affecting any actions of the Town in force at the time this Charter becomes effective shall continue in force and effect except insofar as they conflict with the provisions of this Charter.

Section 16.2. Continuation of Present Appointed Officers and Employees.

All employees and appointed officers and all board, commission, committee or authority members of the Town at the time of the effectiveness of this Charter shall continue in such employment or office under the terms of the original employment or appointment. Nothing contained herein shall alter any employee's status from that of an at-will employee. The Town Manager shall continue to serve at the pleasure of the Board of Trustees and the Finance Director and Town Clerk shall serve at the pleasure of the Town Manager as provided in this Charter.

Section 16.3. Existing Contractual Obligations.

This Charter shall not affect any contractual relationships of the Town existing on the effective date of this Charter, including, but not limited to, any contractual relationship between the Town and any officer or employee by reason of any retirement and pension plans in effect.

Section 16.4. Existing Franchises.

All franchise Ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect, according to their provisions and terms, until the expiration date provided in such Ordinances.